

## **REMARKS**

Before proceeding with a discussion of each of the rejections, it may be well to review the applied prior art as a whole. Each of the Rodriguez, Tone and Cadwalader patents are directed to body worn devices for shielding the body against radiation. That is, they are shields for protecting the partly enclosed subject matter, which subject matter is a part of a person's body.

The present invention, on the other hand, is directed to a cover for enclosing an RF radiating applicator. The cover includes a limited area of non RF shielding material to permit transmission therethrough of RF energy to perform an appropriate treatment of living tissue. The remaining area of the cover is formed of RF shielding material to preclude radiation of RF energy to an operator or the environment as a whole.

The claims at issue, except Claim 10, have been rejected under 35 U.S.C. 102 as reciting subject matter contained in one or another of the Rodriguez, Tone or Cadwalader patents. As set forth above, each of these patents is directed to a device for shielding a body part, but not the whole body, against radiation. The operation and purpose of the present invention is exactly opposite. That is, the cover encloses an RF applicator and includes an area of non RF shielding material to permit treatment of underlying tissue by RF radiation. The remaining area of the cover is formed of RF shielding material to prevent spurious radiation that may harm an operator, other body parts of the person being treated, etc..

Independent Claim 1 has been extensively amended to more particularly point out and

distinctly recite certain features of the invention. In particular, the areas of the RF applicator enclosing cover having RF shielding material and non RF shielding material have been recited along with a closeable open end through which the treatment applicator is inserted and withdrawn. None of the three cited patents disclose nor even suggest such structure, which is not surprising considering that their purposes are quite different than that of the present invention.

Independent Claim 19 and Claim 20 depending therefrom, recite an RF generating system and an applicator none of which elements are present in any of the three applied patents. Furthermore, the claim recites the RF shielding material as introducing capacitance to the circuitry of the applicator. None of the three patents contain any disclosure relating to this subject matter. Accordingly, and by definition, the rejection of Claims 19 and 20 under 35 U.S.C. 102 is improper and must be withdrawn.

Claim 28 has been amended to recite the cover as being closeable to completely encase the RF radiating applicator therewithin. None of the applied patents disclose any device (shield for a body part) which is completely closeable. That is, each of the shielding devices disclosed in the three applied patents are directed to an element for shielding a body part from an externally located source of radiation. In contradistinction, and as set forth in Claim 28, the cover recited is completely closeable for controlling an area thereof through which internally generated RF radiation is transmitted to a location outside the cover. Thus, not only is the cover recited in Claim 28 used for a totally different purpose than that of the shielding devices disclosed in the three applied patents but the structure thereof, as recited, is sufficiently different to warrant a

withdrawal of the rejection under 35 U.S.C. 102. Accordingly, allowance of Claim 28, and Claims 29-32 depending therefrom, is respectfully requested.

New Claim 33 parallels a combination of recitations in Claim 1 and Claim 19 and is directed to the construction of the cover which provides capacitance to the treatment applicator. For reasons set forth above, none of the three applied patents disclose the subject matter of Claim 1 nor the subject matter of Claim 19. As Claim 33 is a combination thereof, it inherently recites allowable subject matter over any of the applied or cited patents. Allowance of new Claim 33 is respectfully requested.

In view of the amendments to the claims to more particularly point out and distinctly claim the invention, the cancellation of certain of the claims, the recitations in new Claim 33, the review of the teachings contained in the applied prior art and the correlation of such teachings with the subject matter of the claims, it is believed that the application is in condition for allowance, which allowance is respectfully requested.

Charge any additional fees or credit overpayment to Deposit Account No. 03-0088. This document is submitted in **DUPLICATE**.

Respectfully submitted,

CAHILL, VON HELLENS & GLAZER P.L.C.

A handwritten signature in black ink, appearing to read "C. Robert von Hellens". The signature is fluid and cursive, with the first name "C." and last name "Hellens" being more prominent.

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